

**Representative Carol Spackman Moss** proposes the following substitute bill:

**STATE BOARD OF EDUCATION MEMBER**

**ELECTION PROCESS AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carol Spackman Moss**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the election process for membership on the State Board of Education.

**Highlighted Provisions:**

This bill:

- requires the direct, nonpartisan election of members of the State Board of Education;
- repeals the involvement of the governor and the nominating and recruiting committee for the State Board of Education in the selection process; and
- makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**20A-6-301**, as last amended by Laws of Utah 2008, Chapters 225 and 315

**20A-6-302**, as last amended by Laws of Utah 2006, Chapter 326



26           **20A-9-403**, as last amended by Laws of Utah 2008, Chapter 225

27           **20A-11-1303**, as last amended by Laws of Utah 2008, Chapter 14

28           **20A-14-104**, as last amended by Laws of Utah 2004, Chapter 19

29 REPEALS:

30           **20A-14-105**, as last amended by Laws of Utah 2003, Chapter 315

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32 *Be it enacted by the Legislature of the state of Utah:*

33           Section 1. Section **20A-6-301** is amended to read:

34           **20A-6-301. Paper ballots -- Regular general election.**

35           (1) Each election officer shall ensure that:

36           (a) all paper ballots furnished for use at the regular general election contain no captions  
37 or other endorsements except as provided in this section;

38           (b) (i) the paper ballot contains a ballot stub at least one inch wide, placed across the  
39 top of the ballot, and divided from the rest of ballot by a perforated line;

40           (ii) the ballot number and the words " Poll Worker's Initial \_\_\_\_ " are printed on the  
41 stub; and

42           (iii) ballot stubs are numbered consecutively;

43           (c) immediately below the perforated ballot stub, the following endorsements are  
44 printed in 18-point bold type:

45           (i) "Official Ballot for \_\_\_\_ County, Utah";

46           (ii) the date of the election; and

47           (iii) a facsimile of the signature of the county clerk and the words "county clerk";

48           (d) each ticket is placed in a separate column on the ballot in the order determined by  
49 the election officer with the party emblem, followed by the party name, at the head of the  
50 column;

51           (e) the party name or title is printed in capital letters not less than 1/4 of an inch high;

52           (f) a circle 1/2 inch in diameter is printed immediately below the party name or title,  
53 and the top of the circle is placed not less than two inches below the perforated line;

54           (g) unaffiliated candidates and candidates not affiliated with a registered political party  
55 are listed in one column, without a party circle, with the following instructions printed at the  
56 head of the column: "All candidates not affiliated with a political party are listed below. They

are to be considered with all offices and candidates listed to the left. Only one vote is allowed for each office.";

(h) the columns containing the lists of candidates, including the party name and device, are separated by heavy parallel lines;

(i) the offices to be filled are plainly printed immediately above the names of the candidates for those offices;

(j) the names of candidates are printed in capital letters, not less than 1/8 nor more than 1/4 of an inch high in heavy-faced type not smaller than ten-point, between lines or rules 3/8 of an inch apart;

(k) a square with sides measuring not less than 1/4 of an inch in length is printed at the right of the name of each candidate;

(l) for the offices of president and vice president and governor and lieutenant governor, one square with sides measuring not less than 1/4 of an inch in length is printed opposite a double bracket enclosing the right side of the names of the two candidates;

(m) immediately to the right of the unaffiliated ticket on the ballot, the ballot contains a write-in column long enough to contain as many written names of candidates as there are persons to be elected with:

(i) for each office on the ballot, the office to be filled plainly printed immediately above:

(A) a blank, horizontal line to enable the entry of a valid write-in candidate and a square with sides measuring not less than 1/4 of an inch in length printed at the right of the blank horizontal line; or

(B) for the offices of president and vice president and governor and lieutenant governor, two blank horizontal lines, one placed above the other, to enable the entry of two valid write-in candidates, and one square with sides measuring not less than 1/4 of an inch in length printed opposite a double bracket enclosing the right side of the two blank horizontal lines; and

(ii) the words "Write-In Voting Column" printed at the head of the column without a 1/2 inch circle;

(n) when required, the ballot includes a nonpartisan ticket placed immediately to the right of the write-in ticket with the word "NONPARTISAN" in reverse type in an 18-point

solid rule running vertically the full length of the nonpartisan ballot copy; and

(o) constitutional amendments or other questions submitted to the vote of the people, are printed on the ballot after the list of candidates.

(2) Each election officer shall ensure that:

(a) each person nominated by any political party or group of petitioners is placed on the ballot:

(i) under the party name and emblem, if any; or

(ii) under the title of the party or group as designated by them in their certificates of nomination or petition, or, if none is designated, then under some suitable title;

(b) the names of all unaffiliated candidates that qualify as required in Title 20A, Chapter 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;

(c) the names of the candidates for president and vice president are used on the ballot instead of the names of the presidential electors; and

(d) the ballots contain no other names.

(3) When the ballot contains a nonpartisan section, the election officer shall ensure that:

(a) the designation of the office to be filled in the election and the number of candidates to be elected are printed in type not smaller than eight-point;

(b) the words designating the office are printed flush with the left-hand margin;

(c) the words, "Vote for one" or "Vote for two or more" extend to the extreme right of the column;

(d) the nonpartisan candidates are grouped according to the office for which they are candidates;

(e) the names in each group are placed in alphabetical order with the surnames last, except for candidates for the State Board of Education and local school boards;

~~[(f) the names of candidates for the State Board of Education are placed on the ballot as certified by the lieutenant governor under Section 20A-14-105;]~~

~~[(g)]~~ (f) if candidates for membership on the State Board of Education or a local board of education were selected in a primary election, the name of the candidate who received the most votes in the primary election is listed first on the ballot;

~~[(h)]~~ (g) if candidates for membership on the State Board of Education or a local board

of education were not selected in the primary election, the names of the candidates are listed on the ballot in the order determined by a lottery conducted by the lieutenant governor or county clerk; and

~~[(f)]~~ (h) each group is preceded by the designation of the office for which the candidates seek election, and the words, "Vote for one" or "Vote for two or more," according to the number to be elected.

(4) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are listed on the ballot in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are listed on the ballot in accordance with Section 20A-6-107; and

(c) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206.

Section 2. Section **20A-6-302** is amended to read:

**20A-6-302. Paper ballots -- Placement of candidates' names.**

(1) Each election officer shall ensure, for paper ballots in regular general elections, that:

(a) except for candidates for state school board and local school boards:

(i) each candidate is listed by party; and

(ii) candidates' surnames are listed in alphabetical order on the ballots when two or more candidates' names are required to be listed on a ticket under the title of an office;

~~[(b) the names of candidates for the State Board of Education are placed on the ballot as certified by the lieutenant governor under Section 20A-14-105;]~~

~~[(c)]~~ (b) if candidates for membership on the State Board of Education or a local board of education were selected in a regular primary election, the name of the candidate who received the most votes in the regular primary election is listed first on the ballot; and

~~[(d)]~~ (c) if candidates for membership on the State Board of Education or a local board of education were not selected in the regular primary election, the names of the candidates are listed on the ballot in the order determined by a lottery conducted by the lieutenant governor or county clerk.

(2) (a) The election officer may not allow the name of a candidate who dies or

withdraws before election day to be printed upon the ballots.

(b) If the ballots have already been printed, the election officer:

(i) shall, if possible, cancel the name of the dead or withdrawn candidate by drawing a line through the candidate's name before the ballots are delivered to voters; and

(ii) may not count any votes for that dead or withdrawn candidate.

(3) (a) When there is only one candidate for county attorney at the regular general election in counties that have three or fewer registered voters of the county who are licensed active members in good standing of the Utah State Bar, the county clerk shall cause that candidate's name and party affiliation, if any, to be placed on a separate section of the ballot with the following question: "Shall (name of candidate) be elected to the office of county attorney? Yes \_\_\_\_ No \_\_\_\_."

(b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is elected to the office of county attorney.

(c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not elected and may not take office, nor may he continue in the office past the end of the term resulting from any prior election or appointment.

(d) When the name of only one candidate for county attorney is printed on the ballot under authority of this Subsection (3), the county clerk may not count any write-in votes received for the office of county attorney.

(e) If no qualified person files for the office of county attorney or if the candidate is not elected by the voters, the county legislative body shall appoint the county attorney as provided in Section 20A-1-509.2.

(f) If the candidate whose name would, except for this Subsection (3)(f), be placed on the ballot under Subsection (3)(a) has been elected on a ballot under Subsection (3)(a) to the two consecutive terms immediately preceding the term for which the candidate is seeking election, Subsection (3)(a) shall not apply and that candidate shall be considered to be an unopposed candidate the same as any other unopposed candidate for another office, unless a petition is filed with the county clerk before the date of that year's primary election that:

(i) requests the procedure set forth in Subsection (3)(a) to be followed; and

(ii) contains the signatures of registered voters in the county representing in number at least 25% of all votes cast in the county for all candidates for governor at the last election at

181 which a governor was elected.

182 (4) (a) When there is only one candidate for district attorney at the regular general  
183 election in a prosecution district that has three or fewer registered voters of the district who are  
184 licensed active members in good standing of the Utah State Bar, the county clerk shall cause  
185 that candidate's name and party affiliation, if any, to be placed on a separate section of the  
186 ballot with the following question: "Shall (name of candidate) be elected to the office of district  
187 attorney? Yes \_\_\_\_ No \_\_\_\_."

188 (b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is  
189 elected to the office of district attorney.

190 (c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not  
191 elected and may not take office, nor may he continue in the office past the end of the term  
192 resulting from any prior election or appointment.

193 (d) When the name of only one candidate for district attorney is printed on the ballot  
194 under authority of this Subsection (4), the county clerk may not count any write-in votes  
195 received for the office of district attorney.

196 (e) If no qualified person files for the office of district attorney, or if the only candidate  
197 is not elected by the voters under this subsection, the county legislative body shall appoint a  
198 new district attorney for a four-year term as provided in Section 20A-1-509.2.

199 (f) If the candidate whose name would, except for this Subsection (4)(f), be placed on  
200 the ballot under Subsection (4)(a) has been elected on a ballot under Subsection (4)(a) to the  
201 two consecutive terms immediately preceding the term for which the candidate is seeking  
202 election, Subsection (4)(a) shall not apply and that candidate shall be considered to be an  
203 unopposed candidate the same as any other unopposed candidate for another office, unless a  
204 petition is filed with the county clerk before the date of that year's primary election that:

205 (i) requests the procedure set forth in Subsection (4)(a) to be followed; and

206 (ii) contains the signatures of registered voters in the county representing in number at  
207 least 25% of all votes cast in the county for all candidates for governor at the last election at  
208 which a governor was elected.

209 Section 3. Section **20A-9-403** is amended to read:

210 **20A-9-403. Regular primary elections.**

211 (1) (a) The fourth Tuesday of June of each even-numbered year is designated as regular

primary election day.

(b) Each registered political party that chooses to use the primary election process to nominate some or all of its candidates shall comply with the requirements of this section.

(2) (a) As a condition for using the state's election system, each registered political party that wishes to participate in the primary election shall:

(i) declare their intent to participate in the primary election;

(ii) identify one or more registered political parties whose members may vote for the registered political party's candidates and whether or not persons identified as unaffiliated with a political party may vote for the registered political party's candidates; and

(iii) certify that information to the lieutenant governor no later than 5 p.m. on March 1 of each even-numbered year.

(b) As a condition for using the state's election system, each registered political party that wishes to participate in the primary election shall:

(i) certify the name and office of all of the registered political party's candidates to the lieutenant governor no later than 5 p.m. on May 13 of each even-numbered year; and

(ii) certify the name and office of each of its county candidates to the county clerks by 5 p.m. on May 13 of each even-numbered year.

(c) By 5 p.m. on May 16 of each even-numbered year, the lieutenant governor shall send the county clerks a certified list of the names of all statewide or multicounty candidates that must be printed on the primary ballot.

(d) (i) Except as provided in Subsection (2)(d)(ii), if a registered political party does not wish to participate in the primary election, it shall submit the names of its county candidates to the county clerks and the names of all of its candidates to the lieutenant governor by 5 p.m. on May 30 of each even-numbered year.

(ii) A registered political party's candidates for President and Vice-President of the United States shall be certified to the lieutenant governor as provided in Subsection 20A-9-202(4).

(e) Each political party shall certify the names of its presidential and vice-presidential candidates and presidential electors to the lieutenant governor's office no later than September 8 of each presidential election year.

(3) (a) The county clerk shall:



243           ~~[(a)]~~ (i) review the declarations of candidacy filed by candidates for local boards of  
244 education to determine if more than two candidates have filed for the same seat;

245           ~~[(b)]~~ (ii) place the names of all candidates who have filed a declaration of candidacy  
246 for a local board of education seat on the nonpartisan section of the ballot if more than two  
247 candidates have filed for the same seat; and

248           ~~[(c)]~~ (ii) conduct a lottery to determine the order of the candidates' names on the ballot.

249           (b) By 5 p.m. on May 16 of each even numbered year, the lieutenant governor shall:

250           (i) review the declarations of candidacy filed by candidates for the State Board of  
251 Education to determine if more than two candidates have filed for the same seat;

252           (ii) if more than two candidates have filed a declaration of candidacy for the same State  
253 Board of Education seat, send the county clerks a certified list of the names and order of names  
254 of all candidates who have filed for the same seat that must be printed on the nonpartisan  
255 section of the ballot; and

256           (iii) conduct a lottery to determine the order of the candidates' names on the ballot.

257           (4) After the county clerk receives the certified list from a registered political party, the  
258 county clerk shall post or publish a primary election notice in substantially the following form:

259           "Notice is given that a primary election will be held Tuesday, June \_\_\_\_\_,  
260 \_\_\_\_\_(year), to nominate party candidates for the parties and nonpartisan offices listed on  
261 the primary ballot. The polling place for voting precinct \_\_\_\_ is \_\_\_\_\_. The polls will open at 7  
262 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk".

263           (5) (a) Candidates receiving the highest number of votes cast for each office at the  
264 regular primary election are nominated by their party or nonpartisan group for that office.

265           (b) If two or more candidates are to be elected to the office at the regular general  
266 election, those party candidates equal in number to positions to be filled who receive the  
267 highest number of votes at the regular primary election are the nominees of their party for those  
268 positions.

269           (6) (a) When a tie vote occurs in any primary election for any national, state, or other  
270 office that represents more than one county, the governor, lieutenant governor, and attorney  
271 general shall, at a public meeting called by the governor and in the presence of the candidates  
272 involved, select the nominee by lot cast in whatever manner the governor determines.

273           (b) When a tie vote occurs in any primary election for any county office, the district

court judges of the district in which the county is located shall, at a public meeting called by the judges and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the judges determine.

(7) The expense of providing all ballots, blanks, or other supplies to be used at any primary election provided for by this section, and all expenses necessarily incurred in the preparation for or the conduct of that primary election shall be paid out of the treasury of the county or state, in the same manner as for the regular general elections.

Section 4. Section **20A-11-1303** is amended to read:

**20A-11-1303. School board office candidate -- Financial reporting requirements**  
**-- Interim reports.**

(1) Each school board office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

~~[(a) May 15, for state school board office candidates;]~~

~~[(b)]~~ (a) seven days before the regular primary election date;

~~[(c)]~~ (b) August 31; and

~~[(d)]~~ (c) seven days before the regular general election date.

(2) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution, the fair market value of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report; and

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date.

(3) (a) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(4) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

Section 5. Section **20A-14-104** is amended to read:

**20A-14-104. Becoming a candidate for membership on the State Board of Education.**

~~[(1)(a)]~~ Persons interested in becoming a candidate for the State Board of Education shall file a declaration of candidacy according to the procedures and requirements of Sections 20A-9-201 and 20A-9-202.

~~[(b) By May 1 of the year in which a State Board of Education member's term expires, the lieutenant governor shall submit the name of each person who has filed a declaration of candidacy for the State Board of Education to the nominating and recruiting committee for the State Board of Education.]~~

~~[(2) By November 1 of the year preceding each regular general election year, a nominating and recruiting committee consisting of 12 members, each to serve a two-year term, shall be appointed by the governor as follows:]~~

~~[(a) one member shall be appointed to represent each of the following business and industry sectors:]~~

~~[(i) manufacturing and mining;]~~

~~[(ii) transportation and public utilities;]~~

~~[(iii) service, trade, and information technology;]~~

~~[(iv) finance, insurance, and real estate;]~~

336           ~~[(v) construction; and]~~  
337           ~~[(vi) agriculture; and]~~  
338           ~~[(b) one member shall be appointed to represent each of the following education~~  
339 ~~sectors:]~~  
340           ~~[(i) teachers;]~~  
341           ~~[(ii) school administrators;]~~  
342           ~~[(iii) parents;]~~  
343           ~~[(iv) local school board members;]~~  
344           ~~[(v) charter schools; and]~~  
345           ~~[(vi) higher education.]~~  
346           ~~[(3) (a) The members appointed under Subsections (2)(a)(i) through (vi) and (2)(b)(i)~~  
347 ~~through (vi) shall be appointed from lists containing at least two names submitted by~~  
348 ~~organizations representing each of the respective sectors.]~~  
349           ~~[(b) At least one member of the nominating and recruiting committee shall reside~~  
350 ~~within each state board district in which a member's term expires during the committee's two-~~  
351 ~~year term of office.]~~  
352           ~~[(4) (a) The members shall elect one member to serve as chair for the committee.]~~  
353           ~~[(b) The chair, or another member of the committee designated by the chair, shall~~  
354 ~~schedule and convene all committee meetings.]~~  
355           ~~[(c) Any formal action by the committee requires the approval of a majority of~~  
356 ~~committee members.]~~  
357           ~~[(d) Members of the nominating and recruiting committee shall serve without~~  
358 ~~compensation, but they may be reimbursed for expenses incurred in the performance of their~~  
359 ~~official duties as established by the Division of Finance.]~~  
360           ~~[(5) The nominating and recruiting committee shall:]~~  
361           ~~[(a) recruit potential candidates for membership on the State Board of Education prior~~  
362 ~~to the deadline to file a declaration of candidacy;]~~  
363           ~~[(b) prepare a list of candidates for membership on the State Board of Education for~~  
364 ~~each state board district subject to election in that year using the qualifications under~~  
365 ~~Subsection (6);]~~  
366           ~~[(c) submit a list of at least three candidates for each state board position to the~~

governor by July 1; and]

~~[(d) ensure that the list includes appropriate background information on each candidate.]~~

~~[(6) The nominating committee shall select a broad variety of candidates who possess outstanding professional qualifications relating to the powers and duties of the State Board of Education, including experience in the following areas:]~~

~~[(a) business and industry administration;]~~

~~[(b) business and industry human resource management;]~~

~~[(c) business and industry finance;]~~

~~[(d) business and industry, including expertise in:]~~

~~[(i) metrics and evaluation;]~~

~~[(ii) manufacturing;]~~

~~[(iii) retailing;]~~

~~[(iv) natural resources;]~~

~~[(v) information technology;]~~

~~[(vi) construction;]~~

~~[(vii) banking;]~~

~~[(viii) science and engineering; and]~~

~~[(ix) medical and healthcare;]~~

~~[(e) higher education administration;]~~

~~[(f) applied technology education;]~~

~~[(g) public education administration;]~~

~~[(h) public education instruction;]~~

~~[(i) economic development;]~~

~~[(j) labor; and]~~

~~[(k) other life experiences that would benefit the State Board of Education.]~~

**Section 6. Repealer.**

This bill repeals:

**Section 20A-14-105, Becoming a candidate for membership on the State Board of Education -- Selection of candidates by the governor -- Ballot placement.**